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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Kazutoshi WATANABE et al.

Group Art Unit : 1624

Serial No : 09/787,426

Examiner : Tamthom Ngo Truong

Filed : July 2, 2001

For : PYRIMIDONE DERIVATIVES

**ELECTION WITH TRAVERSE**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

Sir:

This is in response to the requirement for election of species set forth in the Office Action mailed from the U.S. Patent and Trademark Office on September 23, 2002, which sets a one month period for response until October 23, 2002.

Applicants hereby request an extension of time for one month to extend the period for response until November 25, 2002 (November 23, 2002 being a Saturday), and are concurrently filing a formal Request for Extension of Time for one month accompanied by the government fee. If for any reason the formal Request for Extension of Time is not associated with the file and/or the government fee is deficient, this is an express request for any required extension of time to maintain the pendency of the application, and authorization to charge any required fee for maintaining the pendency of the application including any required extension of time fee to Deposit Account No. 19-0089.

Reconsideration and withdrawal of the requirement for election of species are respectfully requested in view of the remarks which follow:

### **Requirement For Election of Species**

The Office Action asserts that this application contains claims directed to more than one species of generic invention. Moreover, it is asserted that these species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are indicated in the Office Action, as follows:

- a. Compounds of formula (I) wherein  $R^1$  is  $C_1$ - $C_{18}$  alkyl/alkyloxy,  $C_3$ - $C_{18}$  alkenyl/alkenyloxy, or  $C_3$ - $C_{18}$  alkynyl/alkynyloxy group.
- b. Compounds of formula (I) wherein  $R^1$  is  $C_3$ - $C_8$  cycoalkyl, or  $C_3$ - $C_8$  cycloalkyloxy group.
- c. Compounds of formula (I) wherein  $R^1$  is  $C_6$ - $C_{14}$  aryl, or  $C_6$ - $C_{14}$  aryloxy group.
- d. Compounds of formula (I) wherein  $R^1$  is a heterocyclic group.
- e. Compounds of formula (I) wherein  $R^1$  is  $-N(R^4)-W-R^5$ , etc.

### **ELECTION**

In order to be responsive to the requirement for election of species, Applicants elect species (e), i.e., compounds of formula (I) wherein  $R^1$  is  $-N(R^4)-W-R^5$ , etc., with traverse. Applicants respectfully submit that claims 1-12 are generic, and that at least claims 1-12 are readable on the elected species.

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**TRAVERSE**

Notwithstanding the election of species (e), i.e., compounds of formula (I) wherein  $R^1$  is -  $N(R^4)-W-R^5$ , etc. in order to be responsive to the requirement for election of species, Applicants respectfully traverse the Examiner's requirement for restriction.

Initially, it is noted that the requirement for election of species omits one criteria of a proper requirement as now established by U.S. Patent and Trademark Office policy, as set forth in MPEP 803, viz. that "an appropriate explanation" must be advanced by the Examiner as to the existence of a "serious burden" if a restriction were not required. Due to the aforementioned omission, it is respectfully submitted that the requirement for restriction is improper and, consequently, its withdrawal is respectfully requested.

Related to this, the requirement is traversed since there would not appear to be a serious burden to examine Applicants' application in total, and for which the appropriate claim fees have been paid. Applicants submit that it would be no serious burden on the Examiner to examine all of the pending claims, especially when the elected species is included in each of the pending claims.

In any event if the requirement for election of species is maintained, rejoinder of the non-elected species is requested upon allowance of a generic claim.

In view of the foregoing, it is respectfully requested that the Examiner seriously reconsider the requirement for election of species, and withdraw the same.

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CONCLUSION


For the reasons discussed above, it is respectfully submitted that the requirement for election of species is improper and should be withdrawn.

Withdrawal of the requirement for election of species with the examination of all claims pending in this application is respectfully requested.

Favorable consideration with early allowance of the pending claims is most earnestly requested.

If the Examiner has any questions, or wishes to discuss this matter, please call the undersigned at the telephone number indicated below.

Respectfully submitted,  
Kazutoshi WATANABE et al.

  
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*begw. 33,094*

November 25, 2002  
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